

IN THE MATTER OF AN ARBITRATION

BETWEEN:

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 548
(hereinafter referred to as the "Union")

-and-

COTA HEALTH
(hereinafter referred to as "COTA" or the "Employer")

AND IN THE MATTER OF A GRIEVANCE CONCERNING ANTOANETA KOSTADINOVA

ARBITRATOR:

Derek L. Rogers

APPEARANCES FOR THE UNION:

Adrienne Lei, Counsel
Ian McKellar, Counsel
Antoaneta Kostadinova, Grievor

APPEARANCES FOR THE EMPLOYER:

Robert Hickman, Counsel
Donald Chiro, Advisor to COTA

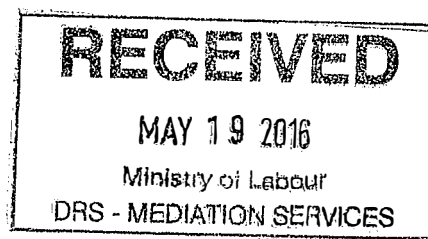
A hearing was held in Toronto, Ontario on May 3, 2016

INTERIM DECISION

1. This case involves allegations that COTA was in breach of its collective agreement with the Union and also of its obligations under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 ("OHSA") in relation to risks to which the Grievor claimed she was exposed in the performance of her duties as a case manager.

2. The Union sought production of the Employer's records for two of its clients: Client A was alleged to have threatened to sexually assault the Grievor in 2015 and Client B was alleged to have assaulted the Grievor during a home visit in February 2016.

Rel id: 6587
File id: 852249
Folder id: 10018-XR-16



3. The files for Clients A and B are arguably relevant and I hereby order the production of the material to the Union, subject to the following conditions:

- the files will be redacted to eliminate any identification of the clients other than to designate one as the file for Client A and the other as the file for Client B
- the files shall be provided to counsel for the Union
- the files shall not be copied or used otherwise than for the purposes of this proceeding
- no copy of either file or any part thereof is to be provided to the Grievor
- counsel for the Union shall destroy all copies of the client files immediately upon the conclusion of this proceeding and shall confirm to counsel for COTA that no copies have been retained.

4. COTA also requested production of materials that I accept to be arguably relevant in the circumstances described to me by the parties. The Grievor and the Union are to comply with the following production order:

- the Grievor is to produce to counsel for the Employer all of her medical records that relate to her allegations of difficulties experienced in her employment with COTA
- the Grievor is also to produce to counsel for the Employer all of her notes and records that she made in any form or medium and that relate to her allegations of difficulties experienced in her employment with COTA
- to the extent not otherwise required to be produced, the Grievor is also to produce to counsel for the Employer all social media entries and items that relate to her allegations of difficulties experienced in her employment with COTA.

5. The production required of the Grievor and the Union is limited to records, notes and other material that are referable to the period for which the Grievor seeks compensation in this proceeding.

Dated at Toronto, Ontario this 4th day of May 2016.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Derek L. Rogers